

**TIVERTON PLANNING BOARD  
MINUTES OF MEETING  
March 6, 2007**

Chair Rosemary Eva called the regular meeting of the Tiverton Planning Board to order at 7:05 P.M at the Town Hall, 343 Highland Road. Members present were: Ms. Sylvester, Mr. Raposa, Mr. McCollough, Mr. Corr and Mr. Berg, board member and Administrative Officer. Mr. Hughes (arrived at 7:07 P.M.) Also in attendance were the Director of Public Works, David Webster, Town Planner Christopher Spencer and the Board's planning consultant, Jane Weidman. Town Solicitor Andrew Teitz arrived at 7:10 P.M.

**1. Citizens-Union Savings – c/o Raymond Holland, Esq. – 1340 Main Road - Tiverton, RI 02878 – Formal Release of Surety – W/S Crandall Road, Bliss 4 Corners, S/S Bulgarmarsh Road – 2 Lot Commercial Development** Attorney Jeremiah Leary was present on behalf of the petition, representing his associate attorney Raymond Holland who was unavailable. He stated that the Planning Board was currently holding a \$10,000 surety for this development, which was mainly for landscaping. On June 8, 2004, the Planning Board had approved the subdivision and set the surety amount, with an expiration of one year from the issuance of the Certificate of Occupancy (CO) of the bank. He added that the CO had been issued on May 13, 2005.

The Chair read from the minutes of the June 8, 2004 meeting, noting that it had been an unusual motion. She stated that it appeared that everything was in order, and out of an abundance of caution and to follow the Board's standard procedure, she had placed the item on the agenda for a formal vote to release said surety. Mr. Raposa inquired about the maintenance of the drainage system. Mr. Berg replied that Citizens-Union would be responsible for it, since it was located on private property.

Mr. Berg made a motion to release the \$10,000 surety (which was in the form of a passbook). Ms. Sylvester seconded the motion. The motion passed 6-0-1. Ms. Eva, Ms. Sylvester, Mr. McCollough, Mr. Corr, Mr. Berg and Mr. Raposa voted in favor. Mr. Hughes abstained, since he had arrived a few minutes late.

**2. Northborough Realty Holdings, LLC – 401 Lowell Street, Unit 6 – Lexington, MA 02420 – Sewer Line Extension Consultation per Town Charter Article X, Section 1010(a) – E/S Main Road, North of Souza Road (Former Bouchard Property) – Bayview (Residential Lot – 10 Buildings – 52 Condominium Units & Commercial Parcel)** Attorney Jeremiah Leary, engineer Michael Maglio of Tibbetts Engineering and applicant Kevin Gillis of Northborough Realty Holdings, LLC were present on behalf of the petition. Mr. Leary reviewed the approval process for sewer extensions, as set forth in the Town Charter - the Town Council ultimately approves sewer extensions, after consultation with the Planning Board. He stated that the Town's Wastewater Management Commission (WWMC) supervises the installation process. Mr. Leary stated that he had discussed this issue with Wastewater Superintendent John Lincourt and the Director of Public Works David Webster, who had submitted their written reports to the Planning Board, which contained minor comments. Both Mr. Lincourt and Mr. Webster had suggested that the WWMC's consulting engineer, Beta Engineering, should review the plan. Mr. Leary requested a vote by the Planning Board indicating a positive recommendation to the Town Council, conditional upon a satisfactory review by the WWMC and Beta Engineering.

Mr. Leary stated that he had received comments that afternoon from the Planning Board's consulting engineer, Commonwealth Engineers and Consultants, and that some of those comments were the result of a misconception. Mr. Leary stated that all of the sewers within the Bayview development would be private (construction, maintenance and operation). Mr. Webster noted that the manhole would be the end of the town accepted portion of the sewer.

The Chair stated that she was not in favor of a favorable recommendation at this point. She opined that this application should be submitted by the WWMC. Mr. Leary stated that the WWMC had this item under review. The Chair opined that the WWMC review should be completed prior to a Planning Board recommendation. Mr. Leary suggested that a clear procedure should be set, including an order of precedence.

Mr. Berg asked if the maintenance easement would be to RIDOT (Rhode Island Department of Transportation), since Main Road is a State road. Mr. Webster replied in the negative, stating that the easement would be to the Town, and that the stubs should be relocated in accordance with Mr. Lincourt's comments. Mr. Berg opined that the Board should not vote on a plan containing mistakes.

Mr. Corr read aloud the language from the Town Charter regarding sewer extensions. He stated that he would like to see what the Town's sewer system could handle after development of the Industrial Park and the existing lots in North Tiverton. Mr. Corr stated that service to the Industrial Park and North Tiverton should be the priority. Mr. Leary agreed, stating that the WWMC would report to the Board regarding capacity and opined that this would be a non-issue. Mr. Gillis noted that the Town's sewer capacity was two million gallons per day (2,000,000 gal/day), with a current use of approximately five hundred thousand gallons per day (500,000 gal/day). Mr. Leary clarified that the WWMC would make findings, which would be submitted to the Planning Board. However, he could not guarantee that the WWMC would appear before the Planning Board.

The Chair noted that a technical review meeting for the Bayview project was scheduled for the coming Thursday, and that the issue could be further discussed at that meeting. Mr. Leary requested that this item be placed on the April 3<sup>rd</sup> agenda. Mr. Berg noted that Beta Engineering's review and a revised plan would be required. Mr. Leary noted that there was no time clock pending on this. Mr. Berg made a motion to continue the item to the April 3<sup>rd</sup> meeting. Mr. Hughes seconded the motion. The motion passed unanimously. Ms. Eva, Ms. Sylvester, Mr. Hughes, Mr. McCollough, Mr. Corr, Mr. Berg and Mr. Raposa voted in favor.

At this time, Mr. Webster left the meeting.

### **3. Administrative Officer**

**A. Administrative Officer's Report:** Mr. Berg's report was distributed.

#### **B. Miscellaneous**

**1. Zoning Map & Ordinance Amendments to Correct Inconsistencies with the Comprehensive Community Plan - Cont'd** Mr. Teitz stated that the Planning Board should have a formal, written resolution with findings of fact and maps included. The Board should then vote on their recommendation, and send it to the Town Council. Ms. Sylvester noted that waiting for a draft resolution prior to voting would really slow down the process. Mr. Teitz stated that he and Mr. Spencer would draft the necessary documents.

Mr. Hughes stated that although he was absent from the last meeting (February 20, 2007), he had read the minutes.

##### **a. Zoning Map Amendments**

**1.) W to GC – W/S Main Road & E/S Old Main Road** This proposed map amendment was unchanged from what had been discussed at the February 20<sup>th</sup> meeting. The lot on the south side of Carey Lane (Godek) would remain as R-40. The Starwood parcel (Block 51 Lot 1) was excluded from the amendment, and would remain Waterfront. Mr. Teitz stated that lots not included in the amendment should not be referenced. He added that surrounding zoning districts should be depicted on the maps.

The consensus of the Board was that they were in favor of this map amendment and agreed to move on to the next item.

**2.) HC to R-40 – S/S Souza Road** The affected parcels would be Block 92 Card 9 and a small portion of Block 92 Card 14A. These HC (Highway Commercial) portions would be changed to R-40 to be consistent with the zoning to the south and east. Card 14A would be now all R-40, instead of split. The Chair noted that this split had been done in error during the last Map/Zone change it should have followed the property line. The Viti Mercedes (Block 92 Card 9A) property would remain within the Highway Commercial Zone, since it was already

developed. Mr. Berg noted that this change would make the Zoning Map consistent with the Future Land Use map within the Town's Comprehensive Community Plan.

The consensus of the Board was that they were in favor of this map amendment and agreed to move on to the next item.

**3.) Update OS Zone – Town-wide** It was agreed that the Lebreux parcel would be excluded from the change, since approximately five (5) acres would be subdivided out and would not be included in the open space. Ms. Sylvester stated that the Lebreux parcel would be preserved though a conservation easement instead of ownership.

The list of open space properties received from the Stone Bridge Fire District (SBFD) was reviewed. Mr. Corr suggested that the lot containing the water tank and treatment facility should be excluded from the open space designation. Mr. Teitz suggested that in the future, the Board might wish to propose an amendment to the zoning ordinance text to allow sewer and water lines in the open space zone. He also suggested that perhaps a new zone could also be created at a future date. A brief discussion ensued regarding allowed uses within the Open Space Zone. It was decided that the vacant SBFD parcels would remain on the list to be rezoned OS (Block 113 Cards 67, 7A and 96), and could be removed if so desired by SBFD.

Several lots within Stafford Heights, which had been purchased by the Tiverton Land Trust, had been inadvertently left off of the list of lots presented at the previous meeting (Block 137 Card 7, Block 138 Card 14, Block 133 Card 42 and Block 141 Card 41). These lots were to be added to the list, to be consistent with the map presented. Mr. Teitz noted that all abutters within five hundred feet (500') of the lot lines would have to be notified by certified mail.

The consensus of the Board was that they were in favor of this map amendment and agreed to move on to the next item.

#### **b. Zoning Ordinance Amendments**

**1.) Article II – Definitions, Section c. (104, etc.)** Mr. Berg reviewed the language that was agreed to at the February 20<sup>th</sup> meeting. It reflected the language within the ITE (Institute of Transportation Engineers) manual, which is utilized nationwide. Mr. Teitz noted that this was his first time looking at these proposed text amendments. Mr. Berg noted that the Board had discussed that developments containing more than forty thousand (40,000) square feet would have an adverse impact on the Town due to traffic generation. Ms. Weidman opined that the 40,000 square foot limit could prevent cohesive development on a large parcel of land. Mr. Spencer opined that a greater impact could be generated by multiple developments. Mr. Berg stated that development would not occur all at once. Mr. Teitz stated that the proposed change must be in accordance with the Town's Comprehensive Community Plan.

Mr. McCollough asked if this change would preclude future zoning changes to accommodate the right project. Mr. Berg stated that a developer could request a zoning variance or amendment. Mr. McCollough stated that the developer would then have to prove why their development would be beneficial. Mr. Raposa noted that there were limited Highway Commercial areas that would be large enough for shopping centers, and that development of these lots would require dramatic changes to accommodate anything larger than 40,000 square feet. Mr. Teitz noted that establishment of commercial design guidelines would help encourage internal connections between developments. Mr. Spencer stated that the ordinance should guide development towards what is desirable, instead of just stating what is not allowed.

A discussion ensued regarding the Town's Comprehensive Community Plan and land use. Mr. Hughes noted that he did not wish to chase retail development away, since the Town was in

need of tax revenues. Mr. Berg asked which zone would be best for retail development. Mr. McCollough opined that the Industrial Zone would be the best place to generate tax revenues, and that developers should be forced to show why their development would be beneficial. He stated that it would be good for the Town to discourage developers seeking a quick buck. Mr. Teitz stated that the best way to reduce the tax burden was to preserve open space. He stated that preservation would have a better tax impact than even the best industrial or office park.

**2.) Article IV – District Use Regulations** Mr. Berg distributed a draft containing Planning / Zoning legal counsel Peter Ruggiero’s comments which included the addition of “single or multiple structure” for clarification. The consensus of the Board was that they were in favor of this ordinance amendment and agreed to move on to the next item.

**3.) Article V – District Dimensional Regulations** This article was not ready for review. It was noted that Mr. Spencer had agreed at the previous meeting to work with Ms. Weidman on the language.

**4.) Article VI – Other District Regulations, Section 8.b. & 8.f. – Unaccepted Streets & “Standards for Unaccepted Streets”** Mr. Berg distributed a suggested change from Mr. Webster, who had added the term “cleared shoulders”. His reason was to improve the safety standards. Ms. Weidman opined that a cleared thirty-foot (30’) way was not needed for a fire truck. Mr. Berg noted that the shoulders would also be used for utilities and added that the Town would provide trash pick-up, even if the street were unaccepted. The Chair noted that these standards would apply to existing platted streets, serving substandard lots and that an improved street could be gravel. She added that the Board had discussed this issue in detail many times at previous meetings. Mr. Berg noted that cleared shoulders should also be provided to give pedestrians room to get out of the way of vehicles. Ms. Weidman suggested that a workshop to discuss road standards should be scheduled. The Chair noted that this amendment had been proposed by Mr. Webster and Building / Zoning Official Gareth Eames, both of whom were not present. She polled the Board for their opinions.

Mr. Raposa stated that the utilities would need to be installed in the shoulders, to prevent road hazards. He agreed with the amendment as proposed. Ms. Sylvester also agreed with the amendment as proposed. Mr. Hughes stated that he was undecided, but was leaning towards agreeing with the proposed language. Mr. McCollough stated that the proposed language seemed excessive and that he would need more information. Mr. Corr stated that he agreed with the language as presented, adding that the purchasers of these lots fronting on platted, unimproved streets knew what they were buying when they bought it. Mr. Berg and the Chair also agreed with the language as presented. The consensus was to go with the proposed language and proceed to the next item.

**5.) Article XVIII – Zoning Officer, Section 1.c.** Mr. Teitz noted that the goal was to have all Town fees set by resolution of the Town Council, instead of being contained in the ordinances. He added that the current \$300 fee for a zoning certificate was not justifiable. The Board agreed with the proposed amendment.

After discussion of these items, Mr. Berg made a motion to have Mr. Teitz and Mr. Spencer work on findings for a formal vote by the Board. Mr. Corr seconded the motion. The motion passed unanimously. Ms. Eva, Ms. Sylvester, Mr. Hughes, Mr. McCollough, Mr. Corr, Mr. Berg and Mr. Raposa voted in favor. The Chair noted that this item would be placed on the April 3<sup>rd</sup> Planning Board agenda for a formal vote.

**2. Commonwealth Engineering’s Response Regarding Railroad Right of Way Inquiry** A letter from Commonwealth Engineering relative to the possible encroachment on the railroad right of way on the Starwood property as requested by Town resident, Peter Moniz was reviewed. A copy of the response was given to Peter Moniz who was seated in the audience. Mr. Berg noted that a swale had been installed at the request of CRMC (Coastal Resources Management Council) to prevent a landslide. It was also noted that Commonwealth had recommended that Starwood provide the Town with an as-built plan.

#### **4. Tiverton Planning Board**

**A. Starwood Tiverton, LLC (N/F Starwood Capital Group, LLC) – Request for Surety Reduction Based on Construction Progress** There was no discussion of this item.

**B. Town Planner & Planning Consultant's Items**

**1. Miscellaneous** There was no discussion of this item.

**C. Correspondence** A pamphlet from the RI Conservation District was circulated. It was also noted that Mr. Spencer would speak at the Tiverton Land Trust's *community forum* on March 28<sup>th</sup>.

**D. Miscellaneous** The Chair noted that a charrette was scheduled for March 31<sup>st</sup> by the owner of the marina on Riverside Drive and that an invitation had been extended to the Planning Board and other Town boards and commissions from the Town Administrator. She requested that the Board members notify Mrs. Michaud of their availability for that date.

**E. Approval of Minutes:**

**February 6, 2007 (Special Meeting)** Mr. Hughes made a motion to approve the minutes. Mr. McCollough seconded the motion. The motion passed 6-0-1. Ms. Eva, Ms. Sylvester, Mr. Hughes, Mr. McCollough, Mr. Berg and Mr. Raposa voted in favor. Mr. Corr abstained since he had not completed his review.

**February 13, 2007** Mr. Raposa made a motion to approve the minutes, as amended. Mr. Hughes seconded the motion. The motion passed unanimously. Ms. Eva, Ms. Sylvester, Mr. Hughes, Mr. McCollough, Mr. Corr, Mr. Berg and Mr. Raposa voted in favor.

**February 20, 2007 (Special Meeting)** Mr. Corr made a motion to approve the minutes, as amended. Ms. Sylvester seconded the motion. The motion passed 6-0-1. Ms. Eva, Ms. Sylvester, Mr. Corr, Mr. McCollough, Mr. Berg and Mr. Raposa voted in favor. Mr. Hughes abstained since he had *not* completed his review.

**F. Closed Executive Session** There was no discussion of this item.

**1. Litigation – RIGL 42-46-5(2)**

**G. Adjournment:** Mr. Hughes made a motion to adjourn. Mr. Raposa seconded the motion. The motion passed unanimously. Ms. Eva, Ms. Sylvester, Mr. Corr, Mr. Hughes, Mr. Raposa, Mr. McCollough and Mr. Berg voted in favor. The meeting adjourned at 9:50 P.M.

*(Italicized words represent corrections made on the approved date.)*

Submitted by: \_\_\_\_\_  
Kate Michaud

Approval Date: April 3, 2007